

## Background study changes for children's residential facilities and foster residence settings

Effective Sept. 30 children's residential facilities and foster residence settings licensed by the Department of Human Services (DHS) or the Department of Corrections (DOC) must follow new background study requirements.

The requirements changed on Aug. 1, 2020; however, these new laws were not implemented while the COVID-19 related emergency studies have been in place. Fingerprint-based background studies resumed on Sept. 15, 2021 for children's residential facilities and foster residence settings. For additional information, refer to [Transition from emergency studies to full compliance](#).

Beginning on Sept. 30, 2021, providers must adhere to new requirements for all studies submitted under a children's residential facility or foster residence setting license number. These new requirements include:

- A person cannot begin working in any children's residential facility or foster residence setting – regardless of whether or not the person is supervised – until DHS issues a notice that specifically allows the person to begin working (refer to the information below for guidance on notices that allow a person to begin working).
- Children's residential facilities and foster residence settings that are designated as Title IV-E eligible facilities by DHS are not allowed to have a person begin working in the program, have access to people receiving services or have direct contact while a background study is still being completed. This requirement also applies to when a person is disqualified and during the disqualification reconsideration process.
- If a person is disqualified, they will be disqualified from working in any position, providing direct contact, and having access to people receiving services at a children's residential facility and/or a foster residence setting. Previously, the law only required that the person be disqualified from direct contact and access to persons served by the program.

On Sept. 30, the Background Studies Division will be transitioning Title IV-E providers in NETStudy 2.0 from a non-Title IV-E provider type to a Title IV-E provider type [the list of Title IV-E providers will be generated by the DHS Child Safety and Permanency Title IV-E unit]. Once this has been completed, these providers will then include "Title IVE" in the provider type name (e.g., DHS Children's Residential Facility - Title IVE).

**Providers are expected to know and follow the new requirements regardless of what background study statuses or notices appear in NETStudy 2.0.**

See [Minnesota Session Laws - 2020, 1st Special Session, Chapter 2, Article 5, Sections 5 to 22](#) for the full text of the law. The sections below explain the changes in more detail and provide information on how to comply with the law.

Some of the new requirements only apply to a background study subject if the **license number** you submit the study under is on this [list of Title IV-E eligible facilities](#) (updated quarterly). Please note those differences in the sections below.

## Emergency study subjects

For additional information regarding study subjects who have had an emergency study previously for your children's residential facility or foster residence setting, refer to [Transition from emergency studies full compliance](#).

## When you submit a study

For all types of children's residential facilities and foster residence settings, follow these instructions during the time period immediately after you submit a study request for a person and until you receive more information from DHS.

### Title IV-E eligible facility

When you submit a study, the status in NETStudy 2.0 will state 'N/A.' You must not allow a person to begin working in the facility – regardless of whether or not the person is supervised – until DHS issues a notice that specifically allows the person to begin working. These include a notice that:

- the person is eligible (clearance notice)
- the person has a disqualification, but it has been set aside or
- the person has a disqualification, but they have been granted a variance to work under certain conditions.

### Non-Title IV-E facility

When you submit a study, the status in NETStudy 2.0 will state 'Supervision.' This status is incorrect and should be ignored. You must not allow a person to begin working in the facility – regardless of whether or not the person is supervised – until DHS issues a notice that specifically allows the person to begin working. These include a notice that:

- the person is eligible (clearance notice)
- the person has a disqualification, but it has been set aside
- the person has a disqualification, but they have been granted a variance to work under certain conditions or
- more time is needed to complete a background study and DHS issues a notice allowing the person to work. Refer to the next section titled, "When DHS needs more time to complete a study" for more information.

## When DHS needs more time to complete a study

If a background study will take more than three (3) days to complete, DHS will issue a notice that more time is needed to complete the study. Depending on whether or not the study was submitted under a license number for a Title IV-E eligible facility, follow these instructions:

### Title IV-E eligible facility

When you receive a notice that more time is needed to complete the study, disregard the instructions in the notice as they are incorrect. The supervision statuses in NETStudy 2.0 will be “Yes” or “No.” These statuses should also be disregarded as they will be incorrect. The study subject must not work in the facility, have direct contact or access under any condition while the background study is pending. A person may only begin working when DHS provides a notice that:

- the person is eligible (clearance notice)
- the person has a disqualification, but it has been set aside or
- the person has a disqualification, but they have been granted a variance to work under certain conditions.

### Non-Title IV-E facility

When you receive a notice that more time is needed to complete the study, follow the instructions in the letter. The letter will either: (1) order the person to be removed from direct contact or access if the risk of harm is great OR (2) allow the person to have direct contact or access to people receiving services and tell you if the person must be supervised until the study is completed.

## When a person is disqualified

If a person is disqualified from direct contact due to a disqualifying crime or conduct, they will also be disqualified from working in and from having access to a person receiving services from the facility. The disqualified person can request reconsideration of the disqualification. Depending on whether or not the study was submitted under a license number for a Title IV-E eligible facility, follow these instructions:

### Title IV-E eligible facility

You must not allow the person to work in the facility, provide direct contact, or have access to persons receiving services.

### Non-Title IV-E facility

When you receive a notice from DHS that a person is disqualified, the disqualification letter may either allow the person to work in the facility under certain conditions during the disqualification reconsideration process or may order the person to be removed.

If the person is ordered to be removed, you must remove the person from working in the facility, from direct contact, and from access to persons receiving services. You must not allow the individual to return to the facility in any capacity until DHS issues a notice that:

- the person is eligible (clearance notice)
- the person has a disqualification, but it has been set aside or
- the person has a disqualification, but they have been granted a variance to work under certain conditions.

## When a disqualified person does not request reconsideration

If a person is disqualified from direct contact due to a disqualifying crime or conduct, they will also be disqualified from working in and from having access to a person receiving services from the facility. The disqualified person can request reconsideration of the disqualification. If a person is disqualified and does not request reconsideration within the required timeframe, your facility will receive a notice. Depending on whether or not the study was submitted under a license number for a Title IV-E eligible facility, follow these instructions:

### Title IV-E eligible facility

You must not allow the person to work in the facility, provide direct contact, or have access to persons receiving services. The letter you receive from DHS will not include an order to remove the person from all three roles; however, you must continue to not allow the person to be in any of these roles.

### Non-Title IV-E facility

You must remove the person or continue to not allow the person to work in the facility, provide direct contact, or have access to persons receiving services. The letter you receive from DHS will not include an order to remove the person from all three roles; however, you must remove or continue to not allow the person to be in any of these roles.

## When a disqualified person requests reconsideration

If a person is disqualified from direct contact due to a disqualifying crime or conduct, they will also be disqualified from working in and from having access to a person receiving services from the facility. You will receive a notice from DHS informing you of the person's disqualification. The disqualified person can request reconsideration of the disqualification. If a person is disqualified and requests reconsideration within the required timeframe, your facility will receive a notice. Depending on whether or not the study was submitted under a license number for a Title IV-E eligible facility, follow these instructions:

### Title IV-E eligible facility

When you receive a notice from DHS that a person is disqualified, you must not allow the person to work in the facility, provide direct contact, or have access to persons receiving services. A disqualified person is never allowed to work in a Title IV-E eligible facility in any role during the reconsideration process. You must not allow the individual to work in the facility in any role until DHS issues a notice that:

- the person is eligible (clearance notice)
- the person has a disqualification, but it has been set aside or
- the person has a disqualification, but they have been granted a variance to work under certain conditions.

### Non-Title IV-E facility

When you receive a notice from DHS that a person is disqualified and the person requests reconsideration, the disqualification reconsideration process has not changed. Depending on DHS's determination of the person's risk of harm, the disqualification letter may either allow the person to work in the facility under certain conditions during the disqualification reconsideration process or may order the person to be removed.

If the person is ordered to be removed, you must remove the person from working in the facility, from direct contact, and from access to persons receiving services. You must not allow the individual to work in the facility in any role until DHS issues a notice that:

- the person is eligible (clearance notice)
- the person has a disqualification, but it has been set aside or
- the person has a disqualification, but they have been granted a variance to work under certain conditions.